

Remarks/Arguments

The present amendment is made in response to the Office Action dated December 5, 2005, and identified as Paper No. 11292005. Claims 1-7 are pending.

In the Action, the Examiner rejected claims 1-3 and 12 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 7104964. Claims 1-4 were rejected under 35 U.S.C. § 102(b) as being anticipated by under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,799,149 to Rummell ("*Rummell*"). Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Heinonen ("*Heinonen*"). Claims 12 and 19-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Heinonen* in view of U.S. Patent Publication No. 2004/0236244 to Allen ("*Allen*"). Claims 13 and 14 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Heinonen* in view of *Allen*, as applied to claims 12 and 19-21 above, further in view of U.S. Patent No. 7,192,782 to Roller ("*Roller*"). Claims 15-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Heinonen* in view of *Allen* as applied to claims 12 and 19-21 above, further in view of U.S. Patent No. 3,951,607 to Fraser ("*Fraser*"). Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Heinonen* in view of *Allen* as applied to claims 12 and 19-21 above, further in view of U.S. Patent No. 6,084,682 to Zare ("*Zare*").

I. Claim Amendments

Applicant has amended claim 1 to include the limitations of claim 2 as well as a *Markush* group capturing each of allowed claims 5-11, thereby forming a single independent claim containing all of the limitations of the intervening claims and the allowable subject matter from claims 5-11. Claim 5-11 remain to further limit the invention recited in claim 1 to a single option from the *Markush* group. Claim 11 has been rewritten to be in independent form and to

include all of the limitations of the base and intervening claims. Accordingly, Applicant has overcome the double patenting and substantive rejections for claims 1-11, and Applicant believes these claims to be in condition for allowance.

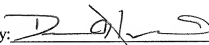
Applicant has amended claim 12 to depend from claim 1 and further limit the claimed invention with respect to the spectrometer. As a result, Applicant believes that claims 12-21 are also in condition for allowance.

Applicant has cancelled claims 22-45 without prejudice to present the claims in a divisional application.

In view of the foregoing amendments as supported by these remarks, the Examiner's reconsideration is requested and allowance of the present application is believed to be in order. If the Examiner believes a phone conference with Applicant's attorney would expedite prosecution of this application, he is respectfully requested to contact him at (315) 218-8530.

Respectfully submitted,

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